

Sunset Public Hearing Questions for
Pest Control Board
Created by Section 62-21-104, *Tennessee Code Annotated*
(Sunset Termination June 2020)

1. Provide a brief introduction to the board, including information about its purpose, statutory duties, staff, and administrative attachment.

The Pest Control Board consists of seven members appointed by the Governor of the State to four (4) year terms. The board has the following powers and duties:

- *Advise the commissioner as to the promulgation of rules and regulations.*
- *Determine the different categories of service which will require separate charters and licenses prescribe the required qualifications for applicants for the various licenses and charters and devise or approve the necessary examinations or testing procedures for the examination of applicants.*
- *Certify the qualifications of applicants to the commissioner requesting issuance of a license.*

Primary staff support is provided by the Pesticide Administrator from the Consumer and Industry Services Division.

Examinations are administered quarterly for the purpose of certifying applicants for licenses, or at any time when requested by the Commissioner or by a majority of the Board.

2. Provide a list of current members of the board and explain how membership complies with Section 62-21-104(a), *Tennessee Code Annotated* and with Section 62-21-104(b)(2), *Tennessee Code Annotated*, which states “the governor shall strive to ensure that at least one person serving on the board is sixty years of age or older and that at least one person serving on the board is a member of a racial minority.”

Pest Control Members:

Don Holt – Pest Control Industry (East TN)

Kenny Crenshaw – Pest Control Industry (West TN)

Robert Frost – Consumer (Middle TN)

Nita Wright – Consumer (Middle TN)

Dr. Karen Vail, University of TN (East TN)

Danny Sutton, Director, Commissioner’s Designee, Consumer & Industry Services

Kathy Booker, Pesticides Administrator (representing Plant Industries)

3. Are there any vacancies on the board? *No* If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

4. How many times did the board meet in Fiscal Year 2018 and to date in Fiscal Year 2019? How many members were present at each meeting? Please note meetings where the board did not have a quorum. *The board met 4 times in 2018 which were July 10, 2017 – did not have a quorum, 3 in attendance, October 2, 2017 - 5 in attendance, January 8, 2018 – 4 in attendance, and April 2, 2018 – 4 in attendance. The board met 4 times in 2019. July 9, 2018 – 6 in attendance, October 1, 2018 – 6 in attendance, January 7, 2019 – 6 in attendance and April 8, 2019 – 5 in attendance.*
5. What per diem or travel reimbursements do board members receive? *Mileage and hotel expense.* How much was paid to board members in Fiscal Year 2018 and to date in Fiscal Year 2019? *The total reimbursement paid to board members in 2018 was \$1,259.84 and for 2019 \$2,171.13.*
6. What were the board's revenues and expenditure for Fiscal Year 2018 and to date in Fiscal Year 2019? Does the board carry a fund balance? If yes, please provide additional relevant information regarding the fund balance. *There were no revenues generated by the board for 2018 and 2019. The expenditures for 2018 were \$1,259.84 and for 2019 \$2,171.13.*
7. Is the board subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the board have for informing the public of meetings and making minutes available to the public? Does the board allow for public comment at meetings? Is prior notice required for public comment to be heard? *The pest control board is subject to the Sunshine law requirements. The minutes are maintained at the Department of Agriculture, Consumer and Industry Services Division, Pesticides Section. Under the Freedom of Information Act minutes would be made available upon request. The minutes from the previous meeting and agenda for the upcoming board meetings are sent by email to industry approximately two weeks prior to the meeting. In addition, the board meetings, license exam dates and contact for minutes are listed on the department's web-page. Further, a public notice is sent out every quarter regarding the upcoming pest control board meetings. The board does allow for public comment, but not vote. Prior notice is preferred but not required.*
8. Please describe what policies and procedures the board has in place to address potential conflict of interest by board members, staff, and employees. *All board members sign a conflict of interest policy after becoming appointed and is maintained in each board member's file.*
9. Has the board advised the commissioner regarding promulgation of rules as authorized in Section 62-21-105(a)(1), *Tennessee Code Annotated*? Please cite the reference for rules

pertaining to the activities of the board. *At present no new rules or amendment proposals have been presented by the board to the commissioner as required by 62-21-105 – Powers and duties board.*

10. What were the board's major accomplishments during Fiscal Year 2018 and to date in Fiscal Year 2019? *Approved applicants requesting special licenses in the areas of seed treatment, microbial, mold remediation, water treatment, hemlock wooly adegid, wood preservatives and utility pole treatments.*
11. How many different categories of service or classes requiring separate charters or licenses have been specified pursuant to Section 62-21-105(a)(2), *Tennessee Code Annotated*? *There are seventeen (17) categories of licensure offered.*
12. How many applications for charters and licenses did the board receive during Fiscal Year 2018 and to date in fiscal Year 2019? Of those, how many charters and licenses were certified to the Commissioner, as required in 62-21-105(a)(2) and (3), *Tennessee Code Annotated*? How many were not certified and what were the primary reasons for not certifying applicants? *In 2018 90 charter applications were received and 278 license exam applications and all were certified. There were 6 license exam applications rejected due to non-payment, lack of experience and not certified as required. In 2019 106 charter applications were received and 404 license exam applications and all were certified.*
13. Per Section 62-21-107, *Tennessee Code Annotated*, each applicant for a charter is to be accompanied by a corporate surety bond. Section 62-21-108, *Tennessee Code Annotated*, requires each applicant for a charter to conduct work in the wood destroying organisms category, liability to insurance and errors and omissions insurance. If either the bond or insurance is cancelled for a charter holder, how would the board know and how quickly would the board know? What policies and procedures does the board have in place to prevent a charter holder from continuing in business if bond or insurance is cancelled? Have any charters been revoked for this reason? *There is no policy in place for the board to be notified if the bond and insurance for a charter holder has been cancelled. The bonding and insurance companies notify the Consumer and Industry Services Division, Pesticides Section in writing when a cancellation notice takes place and the appropriate action is taken which consist of calling the pest control company, sending out letters to the pest control operator regarding the bond and/or insurance, if unsuccessful a pesticide inspector is assigned to visit the company and obtain a copy of the current the bond and /or insurance information. The final step is to pursue revocation through the administrative procedures act. There have been no charters revoked during this timeframe.*
14. What reports does the board prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in Fiscal Year 2018 and to date in Fiscal Year 2019. *The board does not prepare reports however; minutes are kept of each Board meeting and maintained at*

the Consumer and Industry Services Division, Pesticides Section including a tally sheet of the exam results. Copies of the minutes, tally sheets from the previous testing session, list of those appearing before the board and those approved to sit for the license exams are sent to all Board members and are made available to interested parties upon request.

15. Please describe any items related to the board that require legislative attention and your proposed legislative changes. *Currently, there are no proposed legislative changes.*

16. Should the board be continued? To what extent and in what ways would the absence of the board affect the public health, safety, or welfare of the citizens of Tennessee?

The Board should be continued for purposes of determining the license exam process, qualifications, and making recommendations for rule revisions and other issues brought before the board for consideration. By having an inclusive group on the board, various situations can be evaluated from several perspectives and not just from the perspective of staff or industry. The absence of the board would have a potential effect on the health, safety, welfare, and environment of the state because the board reviews, makes recommendations and approves those applicants requesting a special license.